D.B. CIVIL SPECIAL APPEAL (W) NO.100/2004

Amrit Lal Meena and Anr.

Vs.

The State of Rajasthan and Ors.

DATE OF ORDER :: 18.5.2007

HON'BLE MR JUSTICE RAJESH BALIA
HON'BLE MR JUSTICE BHANWAROO KHAN

Mr. Harish Purohit, for the appellants.
Mr. LR Upadhyaya, Deputy Govt. Advocate.

Heard learned counsel for the parties.

This appeal is directed against the order of the learned Single Judge dtd. 8.1.2007 dismissing the writ petition filed by two appellants namely Amrit Lal Meena and Dharmendra Chobisa.

Both the petitioners-appellants have obtained Bachelors' Degree in Education from B.N. Mandal University, Laloo Nagar, Madhepura through Muslim Minority Ahmedia B.Ed. College Kathihar (Bihar). On the premise of the aforesaid B.Ed. Degree as essential eligibility qualification, the petitioners-appellants had been selected and appointed as Teacher Gr.III in pursuance of advertisement bearing No. 98-99 issued by the District Establishment Committee, Zila Parishad, Dungarpur. However, on account of certain complaints,

it transpires that amongst others, B.Ed. Degrees obtained from B.N. Mandal University through Muslim Minority Ahmedia B.Ed. College Kathihar (Bihar) had been cancelled. Consequently, the petitioners-appellants' services were terminated on the ground that they did not hold basic eligibility qualification as a result of cancellation of their respective degrees of B.Ed.

The degree obtained from B.N. Mandal University through its affiliated institution Muslim Minority Ahmedia B.Ed. College Kathihar (Bihar) with some other institution affiliated to B.N. Mandal University and other University in Bihar was a result of directions issued by the learned Single Judge of Patna High Court on finding the doubtful nature of existence of these institutions imparting training in education courses.

Learned Single Judge has dismissed the writ petition to challenge the termination order inter alia on the ground that since petitioners-appellants had ceased to hold eligibility criteria, they cannot be allowed to be continued in service and termination order was held to be valid.

We may notice here that the petition was filed by three candidates namely Amrit Lal Meena, Onkar Nath Jogi and Dharmendra Chobisa. This appeal is

preferred by only Amrit Lal Meena and Dharmendra Chobisa only.

We are informed that during the pendency of this appeal the Letter Patent Appeal filed by many candidates including some from Muslim Minority Ahmedia B.Ed. College Kathihar (Bihar) came to be decided on 5.1.2007. In group of cases decided through aforesaid judgment, the Letter Patent Appeal No.839/2001 preferred by the appellant No.2 Dharmendra Chobisa also came to be decided and his appeal was allowed. The appellant No.1 Amrit Lal Meenta had not filed any appeal until aforesaid decision of the Division Bench of the Patna High Court.

We are further informed that now writ petition has been filed in the year 2007 challenging the cancellation of B.Ed. Degree in the case of appellant No.1 Amrit Lal Meena.

Considering the aforesaid judgment rendered by the Division Bench of the Patna High Court, this Court has allowed the special appeal filed by those candidates, who had been successful before the Division Bench of the Patna High Court under aforesaid judgment and appeals filed by those candidates, who had not preferred any Letter Patent Appeal or the petition until the judgment of the Division Bench was delivered had been dismissed. The cases of those petitioners-

appellants, who had challenged the cancellation of their degrees earlier and whose cases are pending, the appeals filed by such candidates have been kept pended. Reference in this connection has been made to D.B. Civil Writ Petition No. 97/2004 (Navin Kumar Jain Vs. State of Raj. and Ors.) decided on 27.2.2007.

For the aforesaid reason, the appeal of appellant No.1 Amrit Lal Meena is dismissed. No costs.

Hence, the appeal filed by appellant No.2 Dharmendra Chobisa whose B.Ed. Degree has been restored deserves to be allowed as the very foundation of cancelling his appointment has ceased to exist. Accordingly, this appeal is allowed qua Dharmendra Chobisa by setting aside his termination order. Since he is continuing in service under the interim order until now, the appellant No.2 Dharmendra Chobisa's services shall be continued as before and he shall be entitled to all consequential benefits of being continued in service w.e.f. the date of his appointment, as if termination oder was not passed.

(BHANWAROO KHAN),J. (RAJESH BALIA),J.

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